

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 17 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RICHARD MARSCHALL,

Defendant-Appellant.

No. 22-30048

D.C. No.

3:20-cr-05270-BHS-1

Western District of Washington,
Tacoma

ORDER

Before: BYBEE and R. NELSON, Circuit Judges.

In reviewing the district court's denial of release pending appeal, we review factual determinations for clear error and legal determinations de novo. *United States v. Garcia*, 340 F.3d 1013, 1015 (9th Cir. 2003).

The district court did not err in finding that appellant has not shown, by clear and convincing evidence, that appellant is not likely to pose a danger to the safety of any other person or the community if released. *See* 18 U.S.C. § 3143(b); *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985). Accordingly, appellant's motion for bail pending appeal (Docket Entry No. 2) is denied.

The parties' motions to file documents under seal (Docket Entry Nos. 7 and 9) are granted. The Clerk will publicly file Docket Entry Nos. 7-1, 9-1, and 9-3 and shall maintain Docket Entry Nos. 7-2 and 9-2 under seal.

The briefing schedule established previously remains in effect.